

110TH CONGRESS
1ST SESSION

S. 1614

To amend the Fair Labor Standards Act of 1938 to strengthen penalties
for unlawful child labor.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2007

Mr. HARKIN (for himself, Mr. KENNEDY, and Mrs. MURRAY) introduced the
following bill; which was read twice and referred to the Committee on
Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to
strengthen penalties for unlawful child labor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Labor Protection
5 Act of 2007”.

6 **SEC. 2. CHILD LABOR PROTECTIONS.**

7 Subsection (e) of section 16 of the Fair Labor Stand-
8 ards Act of 1938 (29 U.S.C. 216(e)) is amended to read
9 as follows:

1 “(e)(1)(A) Any person who violates the provisions of
2 sections 12 or 13(e), relating to child labor, or any regula-
3 tion issued pursuant to such sections, shall be subject to
4 a civil penalty in an amount—

5 “(i) that is not less than \$500 and not more
6 than \$15,000 for each employee who was the subject
7 of such a violation;

8 “(ii) that is not less than \$15,000 and not more
9 than \$50,000 with respect to each such violation
10 that causes the death or serious injury of any em-
11 ployee under the age of 18 years; and

12 “(iii) in the case of a willful or repeat violation,
13 that is not less than \$15,000 and not more than
14 \$100,000.

15 “(B) For purposes of subparagraph (A)(ii), the term
16 ‘serious injury’ means—

17 “(i) the permanent loss or substantial impair-
18 ment of one of the senses (sight, hearing, taste,
19 smell, tactile sensation);

20 “(ii) the permanent loss or substantial impair-
21 ment of the function of a bodily member, organ, or
22 mental faculty, including the loss of all or part of an
23 arm, leg, foot, hand, or other body part; or

1 “(iii) the permanent paralysis or substantial im-
2 pairment that causes loss of movement or mobility
3 of an arm, leg, foot, hand, or other body part.

4 “(2) Any person who repeatedly or willfully violates
5 section 6 or 7, relating to wages, shall be subject to a
6 civil penalty in an amount not to exceed \$1,100 for each
7 such violation.

8 “(3) In determining the amount of any penalty under
9 this subsection, the appropriateness of such penalty to the
10 size of the business of the person charged and the gravity
11 of the violation shall be considered. The amount of any
12 penalty under this subsection, when finally determined,
13 may be—

14 “(A) deducted from any sums owing by the
15 United States to the person charged;

16 “(B) recovered in a civil action brought by the
17 Secretary in any court of competent jurisdiction, in
18 which litigation the Secretary shall be represented
19 by the Solicitor of Labor; or

20 “(C) ordered by the court, in an action brought
21 for a violation of section 15(a)(4) or a repeated or
22 willful violation of section 15(a)(2), to be paid to the
23 Secretary.

24 “(4) Any administrative determination by the Sec-
25 retary of the amount of any penalty under this subsection

1 shall be final, unless within 15 days after receipt of notice
2 thereof by certified mail the person charged with the viola-
3 tion takes exception to the determination that the viola-
4 tions for which the penalty is imposed occurred, in which
5 event final determination of the penalty shall be made in
6 an administrative proceeding after opportunity for a hear-
7 ing in accordance with section 554 of title 5, United States
8 Code, and regulations to be promulgated by the Secretary.

9 “(5) Except for civil penalties collected for violations
10 of sections 12 or 13(c), sums collected as penalties pursu-
11 ant to this section shall be applied toward reimbursement
12 of the costs of determining the violations and assessing
13 and collecting such penalties, in accordance with the provi-
14 sion of section 2 of the Act entitled ‘An Act to authorize
15 the Department of Labor to make special statistical stud-
16 ies upon payment of the cost thereof and for other pur-
17 poses’ (29 U.S.C. 9a). Civil penalties collected for viola-
18 tions of sections 12 or 13(c) shall be deposited in the gen-
19 eral fund of the Treasury.

20 “(6) Whoever violates a provision of section 12 or
21 13(c), relating to child labor, or any regulation promul-
22 gated under such sections, shall be imprisoned for not
23 more than 3 years or fined under title 18, United States
24 Code, or both, except that in the case of a second or subse-
25 quent violation, such penalty shall be imprisonment of not

- 1 less than 3 years and not more than 5 years or a fine
- 2 under title 18, United States Code, or both.”.

○